

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MARIA ESTHER LOPEZ,

Plaintiff,

v.

GUGLIELMO & ASSOCIATES,

Defendant.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

1. Defendant Guglielmo & Associates, attorney debt collectors, continued to try to collect on a disputed debt after Plaintiff Maria Ester Lopez asked that Gugleilmo & Associates cease all contact with her except to provide her proof of the validity of the debt. Plaintiff seeks damages under the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* (“FDCPA”), and New Mexico consumer protection law.

Jurisdiction

2. This Court has jurisdiction under the FDCPA, 15 U.S.C. § 1692k(d), and under 28 U.S.C. §§ 1331 & 1337. This Court has supplemental jurisdiction over the state claims pursuant to 28 U.S.C. § 1367.

Parties

3. Plaintiff Maria Esther Lopez resides in Albuquerque, New Mexico. She is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).
4. Defendant Guglielmo & Associates is a law firm with its main office in Arizona and whose principal business is the collection of consumer debts. It regularly collects or attempts to collect debts owed or due or asserted to be owed or due another. It has been

engaged by multiple creditors to do so. It has been sued for its unlawful debt collection practices in this Court in the past. *See Coine v. Guglielmo & Associates*, No. 10-CV-29 (D. N.M.). Guglielmo & Associates is “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

Facts

5. Ms. Lopez obtained a credit card from Discover Bank that, through no fault of her own, she was unable to pay off.
6. This credit card was obtained for personal, family or household purposes.
7. In a letter dated July 12, 2010, Guglielmo & Associates demanded that Ms. Lopez pay \$2,217.64 on an alleged credit card debt owed to Discover Bank.
8. In a letter to Guglielmo & Associates dated July 15, 2010, sent by certified mail, Ms. Lopez disputed the amount of the debt and stated: “OTHER THAN PROVIDING ME STRICT PROOF OF THE VALIDITY OF THE DEBT ON MY PART, PLEASE CEASE ALL CONTACT WITH ME.
9. Guglielmo & Associates received the July 15 letter on July 20, 2010.
10. With a letter dated August 4, 2010, Guglielmo & Associates provided an affidavit from Brenton Allen of DFS Services LLC, in which Mr. Allen referenced a “statement of account.” However, no statement was attached to the affidavit.
11. In the August 4 letter, Guglielmo & Associates stated: “Please contact Randy x169 to set up payment arrangements.”
12. As a result of Guglielmo & Associates’ actions or inactions, Ms. Lopez has suffered actual damages, including:
 - a. Out of pocket expenses;

- b. Lost time; and
- c. Aggravation and frustration.

First Claim for Relief: Violations of the FDCPA

- 13. Guglielmo & Associates' actions violate the FDCPA, including but not limited to 15 U.S.C. § 1692c(c).
- 14. Ms. Lopez is entitled to recover statutory damages, actual damages and reasonable attorney fees and costs.

Second Claim for Relief: Violations of the New Mexico Unfair Practices Act

- 15. Guglielmo & Associates' actions constitute unfair or deceptive trade practices within the meaning of the New Mexico Unfair Practices Act ("UPA"), as defined by NMSA 1978 § 57-12-2(D) generally and NMSA 1978 § 57-12-2(D)(14) and (15) specifically.
- 16. Guglielmo & Associates willfully engaged in these unlawful trade practices.
- 17. Ms. Lopez is entitled to recover actual or statutory damages, actual or statutory damages trebled, plus reasonable attorney fees and costs.
- 18. Ms. Lopez is also entitled to injunctive relief.

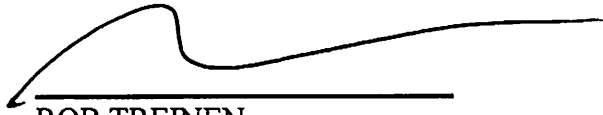
Request for Relief

Plaintiff requests that this Court:

- A. Enjoin Guglielmo & Associates from contacting Ms. Lopez in any way where the contact has as part of its purpose an attempt to collect the alleged Discover Bank debt account;
- B. Award statutory and actual damages, for violations of the FDCPA;
- C. Award statutory or actual damages, trebled, for violations of UPA;
- D. Award reasonable attorney fees and costs; and
- E. Award such other relief as the Court deems just and proper.

Respectfully submitted,

TREINEN LAW OFFICE

A handwritten signature in black ink, appearing to read 'Rob Treinen', is written over a horizontal line.

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